

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

DONNA K. SOUTTER, :
on behalf of herself and :
those similarly situated, :
 :
Plaintiffs, :
v : Civil Action
 : No. 3:10CV107
EQUIFAX INFORMATION SERVICES, :
 : May 16, 2011
Defendant. :

COMPLETE TRANSCRIPT OF CONFERENCE CALL
BEFORE THE HONORABLE ROBERT E. PAYNE
UNITED STATES DISTRICT JUDGE

APPEARANCES: (All via telephone)

Leonard A. Bennett, Esq.
Matthew J. Erasquin, Esq.
Consumer Litigation Associates, PC
3615-H Chain Bridge Road
Fairfax, VA 22030

Dale W. Pittman, Esq.
The Law Office of Dale W. Pittman, P.C.
112-A W. Tabb Street
Petersburg, VA 23803-3212

Counsel for the Plaintiffs

DIANE J. DAFFRON, RPR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT

1 APPEARANCES: (Cont'd.)

2 Barry Goheen, Esq.
3 John A. Love, Esq.
4 King & Spalding
1180 Peachtree Street, NE
Atlanta, GA 30309-3521

5 John W. Montgomery, Jr., Esq.
6 Montgomery & Simpson
2116 Dabney Road, Suite A-1
Richmond, VA 23230

7
Counsel for the defendant

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 a motion for reimbursement or recoupment after those
2 costs are incurred. In a sense, Equifax is advancing
3 the cost with the right to move the Court for
4 reimbursement and just essentially brief the issue
5 with the plaintiffs and put that issue before the
6 Court.

7 THE COURT: How much are the anticipated
8 costs? Surely you-all have a feel.

9 MR. GOHEEN: We believe they'll be into the
10 six figures to be sure, Your Honor.

11 MR. BENNETT: And, Judge, this is actually a
12 point of disagreement. Our proposal and what I
13 understood that we were agreeing to, and we're
14 exchanging documents that would clarify that there
15 isn't any such disagreement, is that this matter would
16 be deferred. It isn't that we agree that they would
17 have to petition the Court and that the Court will
18 determine the amount of the costs.

19 We intend to oppose Equifax's entitlement to
20 such costs on multiple bases, including that this is
21 the path, that this method of generating the list is
22 the path that Equifax has selected as opposed to the
23 alternative of providing the data unfiltered to us at
24 a less cost effective -- I mean, a more cost effective
25 level.

1 this issue, too, wouldn't it? Actually, I'll just
2 assign it to Judge Dohnal and let him handle any
3 disagreements. All right?

4 MR. BENNETT: Yes, sir.

5 THE COURT: When are we going to get these
6 consent orders in here so we can get this all
7 straightened out?

8 MR. BENNETT: I'll be optimistic and say
9 tomorrow, but I would like if the Court could permit
10 us to get them filed by close of business Wednesday.

11 THE COURT: All right. File them by close of
12 business Wednesday. It looks be me like everything
13 else has been sorted out.

14 Also file the revised notice with the
15 statement that that's what you-all have reached by
16 agreement.

17 The notice is not going to go out until
18 there's a list anyway, but we'll have to cross the
19 bridge about what to do if there's a list and the
20 Fourth Circuit hasn't decided the issue, if and when
21 that comes, because we sure don't want to send
22 something out and have to issue a recall. That just
23 creates confusion.

24 I really don't think the Fourth Circuit is
25 going to have any trouble with this class definition

1 or the class certification, but if it does, that's all
2 right, and we'll work through it. If I thought it was
3 a close call, I would just slow the whole process
4 down, but I don't think it is, and I think doing what
5 you're doing is a useful and productive effort that
6 will allow the matter to get litigated promptly.

7 So I expect to hear from you on Wednesday.
8 Is there anything else you-all need to take up? I
9 think your proposed schedule is fine.

10 MR. GOHEEN: Your Honor, this is Barry
11 Goheen. The Court when we were last on the phone with
12 the Court had mentioned working through the Court's
13 schedule with regard to trial. I don't know if
14 there's been an update on that from the Court's end or
15 not.

16 THE COURT: Well, we're looking to -- before
17 the notice goes out, I'd like to have a trial date, at
18 least a tentative trial date, but I think right now I
19 still don't -- I need to know how long the trial would
20 take. I need a reasonable estimate to know how long
21 the trial will take. And I'm not sure we know that
22 yet.

23 Also on the discovery, you can have the
24 discovery you want, Mr. Bennett. That's all right.
25 Just don't abuse it. Just because you have 45

1 hears any arguments on these motions or not. Does it
2 usually, Mr. Bennett or Mr. Goheen? What do you all
3 know?

4 MR. GOHEEN: I think it may be, in my
5 experience, Mr. Bennett may have a different one, it's
6 a case by case. Certainly not whether to grant the
7 petition. There won't be an argument on that.

8 THE COURT: Yes, I've never known them to do
9 an argument on whether to grant it. Am I wrong about
10 that? Has that happened?

11 MR. GOHEEN: I've never heard of it before,
12 Your Honor. If it were granted, then I would say it's
13 probably a likelihood there might be a --

14 THE COURT: They usually put it on the
15 calendar then, I think.

16 All right. Well, we'll just abide the event,
17 and we're set up to go forward if they deny the
18 petition. If they grant it, we'll just have to
19 revisit what we're doing.

20 MR. GOHEEN: Thank you, Your Honor.

21 THE COURT: All right. Thank you all very
22 much.

23 MR. BENNETT: Thank you.

24 THE COURT: Bye.
25

1 (The proceedings were adjourned at 10:43
2 a.m.)

3
4 I, Diane J. Daffron, certify that the
5 foregoing is a true and accurate transcription of my
6 stenographic notes.

7 /s/

8 DIANE J. DAFFRON, RPR, CCR DATE
9

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25